G. R. S. IX-5]

*Previous references.*

File No. 57-15

1915. 16

( Legis )

Serial Nos. 1-3

*Later references.*

# GENERAL AND REVENUE SECRETARIAT.

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Preserve
Mr 30/7/19

*Serial Nos.* 1-3

**Part B for** Oct. 16

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SUBJECT.

Withdrawing the powers of a 'Court' under the Mysore Land Acquisition Regulation 1894 conferred on the Subordinate judges of Bangalore & Mysore

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To The Compiler Mysore Gazette
J 1255 dy 18/10/16

Notifies the above

3)

W D 88—GPB—50,000—24-7-16

(For disposal by circulation.)

No. C. 702

25/9/1916.

# GENERAL AND REVENUE SECRETARIAT.

**Council Matter.**

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## SUBJECT.

Question of withdrawing the powers of a 'Court' under the Mysore Land Acquisition Regulation, 1894, conferred on the Subordinate Judges of Bangalore and Mysore.

## CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

D. M. Ranganna Rao

23rd Septr., 1916.

*Secretary to Government.*

---

**Extraordinary Member of Council.** 28.9.16.

**First Member of Council.** 28/9

160
28.9.16

**Second Member of Council.**

270.
29.9.16.

WD 2012—GPB—1 000—9-2-16

G. R. S. 11] 1915-16

GENERAL AND REVENUE SECRETARIAT.

( Legis )

NOTES.

File No. 57-15-

FILE HEADING. Jurisdiction of the Civil courts and the Asst. Sub-Judge over suits under the Mysore Land Requisition Regn.

From

| No. | Dated | Received |
|---|---|---|

| Diary No. | Enclos. | Spare Copies. | Serial No. |
|---|---|---|---|

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

NOTES—First Sheet.

(2)

G.R.S. 13]

## Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

J Mis/249-15

1) In the Select Committee Meeting held in connection with the Bill to amend the Land Acquisition Regulation, the question was raised whether in view of the notification conferring powers of a "Court" under S 3 on the Subordinate Judge of Mysore, the exercise of the powers of a "Court" by the District Judge is not illegal

2) Under Notification No 5163 dated 14.10.1898, the Subordinate Judge of Bangalore is invested with the powers of a Court under S 3 of the Land Acquisition Regulation VII

*N.B.*—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—50,000—5-8-15

G.R.S. 13]

## Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

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of 1894. These powers do not appear to have been varied, modified or cancelled till now. When the District Courts was established in 1902, and again in 1911 that Court was invested with the powers of the District Courts with ordinary original Civil jurisdiction, but the powers notified as referred to above does not appear to have been cancelled. Under S 3 (d) of the Expression Courts means a principal Civil Court of original jurisdiction, unless the Government has appointed a special judicial officer within any specified local limits to perform the functions of the Court under the Regulation

The Land Acquisition Regn

*N.B.*—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—50,000—5-8-15

4

G.R.S. 13]

## Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

3)

The plain construction of this provision seems to be that the principal Court of original jurisdiction will have all the powers of a District Court only and so long as there is no special judicial officer appointed under this Section by Govt. As soon as such officer is appointed, the powers of the "Court" as defined under the Regn. can no longer be exercised by the District Court. If this view be correct, then, the principal District Court cannot be a court under the Land Acquisition Regn. and there is no

*N.B.*—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—50,000—5-8-15

Jom 1269-15

5

G.R.S. 13]

## Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

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basis for drawing adhesion as to cases above the value of Rs 10,000, as alleged to have been done.

4) If approved, the Govt. Advocate's Chief Consulted will be requested.

Ss
16/3

First Member

5) The Govt. Adv. may be Consulted -

16/3/16

6. Forwarded unofficially to the Government Advocate for favour of opinion

By order
Secretary to Govt.
Gen. Dept.

17/3/16

J. N. O. 47-15
D 18.3.16

*N.B.*—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—50,000—5-8-15

G.R.S. 13]

## Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

111/24/3 Misc. O.C.G.G. 15-16

7.

The question raised is not quite free from doubt. Under the power vested by the Civil Courts Reg.n the jurisdiction of the Subordinate Judge has been notified & extends to all proceedings of a civil nature unless otherwise exempted, upto Rs 10000. Disposal by Competent Courts of references under the Land Acq.n Reg.n are no doubt proceedings of a civil nature. The Court ordinarily Competent to dispose of references under the L.A. Reg.n is the principal Civil Court of original jurisdiction (vide Sec 3 (4)). The D.t Court is the principal Civil Court of original jurisdiction (see § 7 of the Civil Courts Reg.n). The Sub Judge Cannot therefore, unless specially empowered exercise jurisdiction under the L.A. Reg.n. The notif.n issued by Govt Empowering the Sub Judge of Mysore to exercise jurisdiction in L.A Cases is worded as follows

"In exercise of the power conferred by Sec 3(d) of the Mysore Land Acq.n Reg.n VII of 1894 the Govt. of H.H. the Maharaja of are pleased to appoint the Subordinate Judge of Mysore to perform the functions of a Court under the said Reg.n within the local limits of his ordinary original jurisdiction

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—50,000—5-8-15

G.R.S. 13]

## Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

This notifn read with Sec 9. of the Civil Courts Regn. may possibly mean that the jurisdiction of the subordinate judge to deal with L.A. ~~Cases~~ references is by implication limited to Rs 10000/- This view receives some support from the withdrawal of L.A. Cases over Rs 10000/- in value from the Sub Court of Bangalore & the transfer of the same to the D.J. Court after the formation of the latter Court in August 1911. However there I am of opinion that the language of the notifn of Sec 3(d) of the Regn seem to point out that the Sub Court is the only Court to which references shall lie under the L.A. Regn. irrespective of the pecuniary value of the subject matter of the reference. It seems to me that when a special judicial officer is appointed ~~under~~ to perform the functions of the Court under the L.A. Regn the principal Civil Court of original jurisdiction which is the Court under the Regn. ceases to exercise

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—50,000—5-15

J. mi 1269-15

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G.R.S. 13]

## Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

jurisdiction ~~x~~ in its place appointed the Special Judicial Officer steps in.

Cf. the language used in the Notf. empowering Sub Judges to perform the functions of a Dt. Court in proceedings under the Suc: Certificate Reg: with wherein there is the express limitation of the pecuniary jurisdiction upto Rs 10000/-.

Cf. also the language employed in Sec.s 3 & 47 of the Madras Reg.n: — "any Court so invested shall x x have concurrent jurisdiction with the Dt. Court under this Regulation

23.3.16.

8. In favour pr order.

24/3

9. The question may be considered ~~afto~~ at a meeting of Council after obtaining the opinion of the Ch Ct.

30/3/16

10. Draft

Hon. Member.

*N.B.*—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—50,000—5-8-15

(11

G. R. S. 12]

General and Revenue Secretariat. | Legs File No. 57 of 1915-16.

| Serial No. | |
|---|---|
| 11 | Subd. with a draft to the Regr. chief Court. 15/4/16 WLL. 12. Submitted for favourable approval. EB 17/4 |
| 225. 17.4.16. | Second Member) 13. Approved. 19.4.16 EB 20/4 |
| | 14. Issue EB 20/4 |
| | 15/4 |
| 1 | No. J 4196 dated 25/4/16 to the Registrar, Chief Court of Mysore. Requests him to obtain and forward the opinion of the Judges of the Chief Court on the jurisdiction of the District and Courts of the Sub-Judges in cases under the Mysore Land Acquisition Regn. |

NOTE—Contn. sheet.

GPB—70,000—17-12-15

G. R. S. 12]

General and Revenue Secretariat. | Legis File No. 5/1 of 1915.

| Serial No. | |
|---|---|
| 2 | Letter 2nd rep. in C. 168 dated 3rd Aug. 1916 from the Registrar of the Chief Court of Mysore, Bangalore informs that ~~in the opinion of~~ the Judges of the Chief Court think that the simplest way of meeting the difficulty is to take away the jurisdiction of the Sub-Judges and further informs that the Judges feel it inexpedient to give any extra-judicial opinion on questions of legal interpretation. |

1802
9.8

~~Legislative~~ Council matter as ordered by the Hon'ble at para 9 page 8 of the notes.

15) Secd.

9/8/16

Eg
9/8/16

Second Member) 16)
I think we may adopt the suggestion of the Chief Court that the jurisdiction conferred on Dist. Judges under the L. A. Regn. may be withdrawn. Please put up a draft accdg.

~~1802~~
~~238~~

Loose 54/17

11/23/8/16 23.8.16

GB
24/8

NOTE—Contn. sheet.

GPB—70,000—17-12-15

J 305

13

G. R. S. 12]

General and Revenue Secretariat. | Legis File No. 57 of 191 S.

Serial No.

17) Subd. with a draft as ordered
CB
23/8/16 NR.

council matter as ordered at para 9, page 8 of the notes. †

2002
24.8.16

KB 24/8

Secd Member 18) Draft approved. The Dewan's permission may be taken for placing this before the Council.
KB 25/8/16

Dewan)

12825
26-8-16

19) I agree. May be dealt with by circulation.
20.9.16 CC

(Circn completed)

C.S.

/

B

20) Done
KB 5/10

To The compiler Imperial Gazette
No. 1255 11-10-1916
Notifies that the Powers of a court under the Imperial Land Acquisition Regulation 1896 are withdrawn.

NOTE—Contn. sheet.

GPD—70,000—17-12-15

G.R.S. 26]

SUBJECT.....

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*Diary No. of letter replied to*.....

Section. Legs

File No. 51-15

Serial No. 1

General and Revenue Secretariat

( )

, *the* 191

No. J 4196.

Date of issue 25th April 1916.

Signed by Dy. Q. Sreenivasa Rao

To

The Registrar

Chief Court of Mysore

Sir

In the matter of the Jurisdiction that is now exercised by the Subordinate Judge's ~~Court of Bangalore~~ and the District Judge's ~~Court of~~ Bangalore in cases under the Mysore Land Acquisition Regn, 1894, I am directed to state as follows :-

*over.*

24/4

Under Notification
No. 5163 dated 14/10/98
J. 530
the Subordinate Judge of
Bangalore was invested with
the powers of a Court under
Sec: 3 of the Land Acquisition
Regn., 1894. These powers
do not appear to have been
varied, modified or cancelled
till now. When the 2nd Court
was established in 1902, and
again in 1911 that Court
was invested with the powers
of a 2nd Court with ordinary
original Civil jurisdiction
but the previous notn
referred to above does not
appear to have been cancelled

In the Select Committee
meeting held in connection
with the Bill to amend the
Mysore Land Acquisition
Regn., 1894, the question

*List of enclosures.*

*Copied by*

*Examined by*

GPB—20,000—14-2-14

GENERAL AND REVENUE SECRETARIAT.

*(Continuation sheet draft form.)*

~~was~~ has raised to whether in view of the notn conferring the powers of the Court" under sec: 3 on the Subordinate Judge, the exercise of the powers of a "Court" by the Dt. Judge, under the same section also of the Division is not illegal & ultra vires.

Under sec: 3 (d) of the Land Acquisition Regn the expression "Court" means a principal Court of original jurisdiction unless the Govt has appointed a special judicial Offr within any specified local limits to perform the functions of the Court under the Regn. It therefore seems that the principle Court of original jurisdiction will have all the powers

of a ~~Court~~ "Court" only so long as there is no special judicial officer appointed under this section by Govt. As soon as such an officer is appointed the powers of the Court as defined under the Regulation can no longer apparently be exercised by the Dt. Court; and therefore in the case of the Bangalore Division, therefore, even when the value of the suit under the Land Acquisition Regulation is above Rs 10,000, the pecuniary jurisdiction of the Subordinate Judge's Court, the suit will have to be heard by the Subordinate Judge and not by the District Court.

(Should it not be "above" here? K.I.)

I am therefore to request you to ~~kindly~~ be so good as to place this view before

G. R. S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

the Judges of the Chief Court and to obtain and forward their opinion thereon for the information of the Government.

I have &c.

Sd/- [illegible]
for Secretary to Govt

J. S.

[illegible]
15-4-16.

GPB—20,000—7-7-14-

2nd Ref: on C.147.

GEN. DEPT. 7 AUG 1916

Chief Court of Mysore,

Bangalore, 3rd day of August 1916.

DIARY No. J 305
10/16-17
SECTION Legis
FILE No. 51-15
SERIAL No. 2

From

N. T. GOPALIENGAR, Esq., B. A., LL. B.,

Registrar of the Chief Court of Mysore.

To

D. M. NARASINGA RAO, Esq., B. A., B. L.,

Secretary to the Government of Mysore,

General Department.

Sir,

In reply to your letter No.J.4196 dated the 25th April 1916 requesting to obtain and forward for the information of the Government the opinion of the Judges in the matter of the Jurisdiction that is now exercised by the Subordinate Judge and the District Judge of Bangalore in cases under the Mysore Land Acquisition Regulation of 1894, I am directed to state that in the opinion of the Judges the simplest way of meeting the difficulty raised is to withdraw the Jurisdiction conferred on the Subordinate Judges. That would leave the District Judges with complete jurisdiction and a special officer could be appointed if necessary from time to time for any particular local limits when acquisition might be proceeding to an abnormal extent for large works, if the District Judge is found to be over burdened with work.

The

(1)

The Judges prefer not to state a definite opinion on the question of Jurisdiction. It is a question which might come before them for Judicial pronouncement; they understand that it has already been before the District Judge of Mysore: and they think it inconvenient that they should express an opinion extra judicially in the circumstances.

It is, they venture to think, the duty of the Law Officers not of the Judges to advise the Government on the construction and legal effect of the existing Regulations, and with every desire to assist the Government they cannot but feel that it is inexpedient that they should express opinions upon questions which may fall to be decided by them in cases arising between Government officers and other persons.

I am to add that the Judges are always ready, if desired, to state their views as to proposed legislation, but as to the construction of existing enactments it is they believe better that the expression of their opinions should be confined to their Judgments from the Bench.

I have the honor to be,

S i r,

Your most obedient servant,

A. Gopalan

M. S. C.

REGISTRAR.

BK

G. R. S. 267

Legs File No. 5 / 15

Serial No. 3.

*Diary No. of letter replied to*

General and Revenue Secretariat

( )

*, the* *191* .

Date of issue 11th October 1916.

Signed by Dy. D. M. Narasinga Rao

Notification

No. J 1255.

The powers of a Court under the Mysore Land Acquisition Regn, 1894, conferred on the under sec: 3(d) of the said Regulation on the Subordinate Judges of Bangalore and Mysore are hereby withdrawn.

By order

for Secretary to Govt.

G.S.

To

The Compiler, Mysore Gazette Part I for publication in the Gazette in English and Kannada over and for

SUBJECT. supplying 25 copies of the notn in English to this Office.

## GENERAL.

*No. J.* 1255—*Legis.* 51-15-3, *dated* 11*th October* 1916.

The powers of a Court under the Mysore Land Acquisition Regulation, 1894, conferred under Section 3 (*d*) of the said Regulation on the Subordinate Judges of Bangalore and Mysore are hereby withdrawn.

By Order,
D. M. NARASINGA RAO,
*Secretary to Government,*
*General Department.*